OFFICE OF THE CHIEF OF POLICE

ADMINISTRATIVE ORDER NO. 6

May 31, 2016

SUBJECT: NON-DISCIPLINARY COMPLAINTS – REVISED

PURPOSE: This Order revises Department Manual Section 3/818, Non-Disciplinary Complaints.

PROCEDURE: Attached is the revised Department Manual Section 3/818, Non-Disciplinary Complaints, with the revisions indicated in italics. This Order includes an “Exception Clause” delineating when a complaint may be classified as Non-Disciplinary.

AMENDMENT: This Order revises Section 3/818 of the Department Manual.

AUDIT RESPONSIBILITY: The Commanding Officer, Audit Division, shall review this directive and determine whether an audit or inspection shall be conducted in accordance with Department Manual Section 0/080.30.

CHARLIE BECK
Chief of Police

Attachment

DISTRIBUTION “D”
818. NON-DISCIPLINARY COMPLAINTS. A complaint may be classified as Non-Disciplinary when the following criteria is met:

- The complaint, as stated, would not amount to the commission of a felony or misdemeanor crime;
- The complaint, as stated, may not result in discipline against the employee, or the complained of act or omission by the employee has no nexus to the employee’s position with the Department;
- The complaint was not initiated as a result of a Department integrity audit conducted by Professional Standards Bureau, Special Operations Division;
- The complaint does not allege any of the following: unauthorized force; discrimination of any kind; unlawful search and/or unlawful seizure of person or property; dishonesty; domestic violence; improper/illicit use of alcohol, narcotics, or drugs; sexual misconduct; theft; or, retaliation/retribution against another employee;

**Exception:** When it is clearly proven at the time of the preliminary complaint investigation that the alleged misconduct is Demonstrably False, as defined in this section, the allegation may be classified as Non-Disciplinary.

- The complaint was not as a result of concerns arising out of a criminal prosecution, or, dismissal of California Penal Code Section 148 charges, or otherwise initiated by a judge or prosecutor acting in their official capacity;
- The accused employee has no apparent pattern of similar behavior (should generally be limited to the past five years) for which he/she is accused; and,
- The complaint was not initiated in response to civil suits or claims for damages involving on-duty conduct and civil lawsuits regarding off-duty conduct required to be self-reported by employees.

Commanding Officer’s Responsibilities. A commanding officer who recommends a Non-Disciplinary classification shall check the appropriate box on the Complaint Form, Form 01.28.00, and select the appropriate disposition/rationale as follows:

- Policy/Procedure. The facts of the case revealed that the complaint relates to Department policy/procedure and not to a specific employee’s actions.

**Note:** Complaints against Department policy and procedure not specifically addressing an employee’s actions shall still be initiated on a Complaint Form. In such cases, the Department shall be named as the accused employee, and the complaint will be adjudicated as Non-Disciplinary. Individuals making complaints against Department policy and procedure shall also be referred to the Department entity having functional oversight of the policy or procedure. If the complainant cannot be satisfied, he/she shall be referred to the Board of Police Commissioners.
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VOLUME III
Revised by Administrative Order No. 6, 2016

- **Employee’s Actions Did Not Rise to the Level of Misconduct.** A preliminary investigation revealed that the allegations did not rise to the level of misconduct and/or the named employee’s actions were protected by law or found to be consistent with Department policy or procedure.

- **Employee’s Actions Could Have Been Different.** The facts in the complaint revealed the employee’s actions could have been different. However, the employee’s act or omission is best addressed through corrective action by the employee’s commanding officer. The corrective action(s) taken was:
  - Counseling;
  - Training;
  - Employee Comment Sheet (Comment Card), Form 01.77.00;
  - Notice to Correct Deficiencies, (City) Form General 78; or,
  - Referral.

- **Demonstrably False.** *When it is clearly proven that an allegation did not occur.*

  **Note:** An allegation is considered to be “clearly proven” as Demonstrably False under the following circumstances:
  - The complainant is determined to be vexatious, i.e., the complainant demonstrates an irrational thought process and/or has established a pattern of making chronic or crank complaints; or,
  - Body Worn Video (BWV) or Digital In-Car Video System (DICV) footage, or other audio or video evidence captured the entire incident or citizen contact, and conclusively shows that the employee(s) did not commit the alleged misconduct or did not violate Department policy or procedures.

Consistent with Department policy, all allegations of misconduct initiated by a member of the public, including those determined to be Demonstrably False, must be recorded on a Complaint Form, Form 01.28.00. However, when an audio or video recording clearly proves that an allegation of misconduct is Demonstrably False, the accused and witness officers need not be interviewed regarding the Demonstrably False allegation.

- **Department Employee(s) Not Involved.** The preliminary investigation revealed that the complaint did not involve a Department employee(s).

- **Resolved Through Alternative Complaint Resolution.** The complainant and the accused employee(s) resolved the complaint through the Alternative Complaint Resolution (ACR) mediation process.